

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

TOMAS JHONNY CAMPOS RIOS
7814 Sutter Lane
Annandale, Virginia 22003

Plaintiff,

v.

SWEET HOME IMPROVEMENTS, INC.
7700 Little River Turnpike
#103
Annandale, Virginia 22003

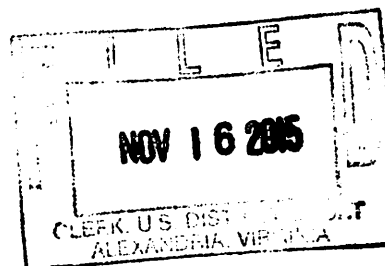
Serve: Resident Agent
Miae Koo
7700 Little River Turnpike
#103
Annandale, Virginia 22003

MIAE KOO
7700 Little River Turnpike
#103
Annandale, Virginia 22003

MYUNG KWAN KOO
7700 Little River Turnpike
#103
Annandale, Virginia 22003

Defendants.

Civil Action No. 1:15-cv-1532
CMH/JFA



COMPLAINT

Plaintiff, Tomas Jhonny Campos Rios ("Plaintiff"), by and through his attorneys, Mary Craine Lombardo and Stein Sperling Bennett De Jong Driscoll PC, hereby files his Complaint against Defendants Sweet Home Improvements, Inc., Miae Koo and Myung Kwan Koo (collectively "Defendants"), under the Fair Labor Standards Act of 1938, 29 U.S.C. § 201, *et seq.* ("FLSA") stating as follows:

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INTRODUCTION

Plaintiff worked for Defendants as a painter. Plaintiff was paid at the same regular hourly rate for all hours worked. He worked approximately sixty hours per week and was not paid at the overtime rate of one and a half times his regular hourly wage as required by federal law. Defendants have willfully violated the clear and well-established minimum wage and overtime provisions of the FLSA. Defendants also breached their contract with Plaintiff by failing to pay the agreed upon regular hourly rate for six weeks of work. Plaintiff seeks compensatory and statutory damages for all unpaid minimum wages and overtime compensation, as well as attorneys' fees and costs.

JURISDICTION & VENUE

1. This Court has subject matter jurisdiction over the causes of action alleged in this Complaint pursuant to 28 U.S.C. §§ 1331 and 1367, and 29 U.S.C. § 216.
2. Venue is proper pursuant to 28 U.S.C. § 1391.

PARTIES

3. Plaintiff is an adult resident of Virginia.
4. Defendant Sweet Home Improvements, Inc. ("Sweet Home") is a Virginia Corporation.
5. Upon information and belief, Defendants Miae Koo and Myung Kwan Koo (the "Individual Defendants") are the owners of Sweet Home.
6. At all times material herein, Defendants, in the aggregate and as a single enterprise, had annual gross volume of sales made or business done in an amount exceeding \$500,000.
7. Each Defendant is an "employer" within the meaning of the FLSA.

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8. Defendants have at least two or more employees who are engaged in commerce, handle, sell or otherwise work on goods or materials that have moved in or were produced for commerce. Defendants negotiate and purchase from producers and suppliers who operate in interstate commerce and serve customers in interstate commerce.

9. At all times relevant, Defendants constituted an “enterprise” within the meaning of 29 U.S.C. § 203(r).

10. The Individual Defendants controlled the day to day operations of Sweet Home.

11. The Individual Defendants had the power to hire, fire, suspend, and discipline Plaintiff.

12. The Individual Defendants supervised Plaintiff directly or indirectly.

13. The Individual Defendants directly or indirectly set and controlled Plaintiff’s work schedule or had the power to do so.

14. The Individual Defendants directly or indirectly set and determined the rate and method of Plaintiff’s pay or had the power to do so.

15. Federal courts have made clear that individual employers are liable under FLSA, if the employer met the economic reality test for “control.” *Chao v. Mid-Atlantic Installation Services, Inc.*, 16 Fed Appx. 104 (2001).

16. The Individual Defendants would be considered an employer for purposes of individual liability because of their intrinsic involvement in the business.

FACTS

17. Plaintiff was employed by Defendants as a painter from February 1, 2013 through November 13, 2014 (the “Employment Period”).

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18. Plaintiff was paid at a regular hourly rate of \$20.00 throughout the Employment Period.

19. He worked approximately sixty hours per week and was never compensated at the required overtime rate of one and one half times his regular hourly rate, for those hours worked over forty hours per week.

20. Defendants also failed to compensate Plaintiff for his final six weeks of work.

21. Plaintiff is owed approximately \$6,800.00 in unpaid straight time wages and \$17,000.00 in unpaid overtime wages.

22. Plaintiff is owed straight time and overtime wages that Defendants willfully failed and refused to pay to Plaintiff in violation of federal law.

23. By statute, Defendants are required to maintain records which document the wages, hours and other conditions of employment. 29 U.S.C. §211(c).

24. The precise number of hours worked, and wages owed, should be revealed through discovery.

25. Defendants knowingly and intentionally violated Plaintiff's rights under Virginia and federal law.

COUNT I (FLSA)

26. Plaintiff adopts herein by reference paragraphs 1 through 25 above as if fully set forth herein.

27. Defendants were required to pay Plaintiff a minimum wage of \$7.25 per hour. *See* 29 U.S.C. §206(a)(1)(c).

28. Defendants failed to compensate Plaintiff altogether for six weeks of work and therefore clearly violated the minimum wage requirement.

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29. Defendants were required to pay Plaintiff compensation at the rate of one and a half times his regular hourly rate for all hours worked in excess of forty hours per week. *See* 29 U.S.C. § 207(a)(2).

30. Throughout the Employment Period, Defendants failed to compensate Plaintiff at the rate of one and a half times his regular hourly rate for all hours worked in excess of forty hours per week.

31. Defendants' actions complained of herein constitute a willful violation of Sections 206 and 207 of the FLSA.

32. Defendants' violation makes them liable to Plaintiff for all unpaid minimum wages and overtime compensation, and an additional equal amount as liquidated damages.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment against Defendants, jointly and severally, in his favor in an amount to be determined at trial, but not less than \$38,930.00 which is two times the total minimum wages and overtime compensation owed, to grant Plaintiff his reasonable attorneys' fees and costs, and such other and further relief as the Court deems just and proper.

COUNT II
(Breach of Contract)

33. Plaintiff adopts herein by reference paragraphs 1 through 25 above as if fully set forth herein.

34. Plaintiff and Defendants had a binding contract.

35. Plaintiff's regular hourly rate was set at \$20.00.

36. Defendants failed to compensate Plaintiff at the agreed upon regular hourly rate for the final six weeks of work.

37. Defendants breached their contract with Plaintiff.

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WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment against Defendants, jointly and severally, and in favor of Plaintiff in an amount to be determined at trial, but not less than \$6,800.00, and such other and further relief as the Court deems just and proper.

Respectfully submitted,

STEIN SPERLING BENNETT
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By: 

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